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7 MICHAEL A. WILLIAMS,
8 Plaintiff,
9 v.
10 GOYAT, et al.,
11 Defendants.

Case No. 15-cv-01593-JD

ORDER OF SERVICE

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13 Plaintiff, a state prisoner, proceeds with a pro se civil rights complaint under 42 U.S.C. §
14 1983. The Court ordered service on Defendants Dr. Goyat and Dr. Armbruro who work at Santa
15 Rita Jail and according to Plaintiff are employed by Corizon Correctional Healthcare. The United
16 States Marshal initiated service at Corizon's regional office in Alameda, CA. An attorney for
17 Corizon sent a letter to the Court stating that no one at the regional office was authorized to
18 receive service for these doctors. Because the Court has already attempted service of a summons
19 the Court will send a Notice of Lawsuit and Request for Waiver of Service of Summons to
20 Defendants at Santa Rita Jail.

21 Therefore, the Court orders as follows:

22 1. The Clerk of the Court shall mail a **Notice of Lawsuit and Request for Waiver of**
23 **Service of Summons, two copies of the Waiver of Service of Summons, a copy of the second**
24 **amended complaint (Docket No. 16) and all attachments thereto, and a copy of this Order to**
25 **Santa Rita Jail for employees Dr. Goyat and Dr. Armbruro.** The Clerk shall also mail a copy
26 of the second amended complaint and a copy of this Order to Matthew Grigg, Law Offices of
27 Nancy Hudgins, 711 Van Ness Ave., St. 450, San Francisco, CA 94102. Additionally, the Clerk
28 shall mail a copy of this Order to Plaintiff.

1 2. Defendants are cautioned that Rule 4 of the Federal Rules of Civil Procedure
2 requires them to cooperate in saving unnecessary costs of service of the summons and complaint.
3 Pursuant to Rule 4, if Defendants, after being notified of this action and asked by the Court, on
4 behalf of Plaintiff, to waive service of the summons, fail to do so, they will be required to bear the
5 cost of such service unless good cause be shown for the failure to sign and return the waiver
6 forms. If service is waived, this action will proceed as if Defendants had been served on the date
7 that the waiver is filed, except that pursuant to Rule 12(a)(1)(B), Defendants will not be required
8 to serve and file an answer before sixty days from the date on which the request for waiver was
9 sent. (This allows a longer time to respond than would be required if formal service of summons
10 is necessary.)

11 Defendants are advised to read the statement set forth at the foot of the waiver form that
12 more completely describes the duties of the parties with regard to waiver of service of the
13 summons. If service is waived after the date provided in the Notice but before Defendants have
14 been personally served, the answer shall be due sixty days from the date on which the request for
15 waiver was sent or twenty days from the date the waiver form is filed, whichever is later.

16 3. In order to expedite the resolution of this case, the court orders as follows:

17 a. No later than sixty days from the date of service, defendant shall file a
18 motion for summary judgment or other dispositive motion. The motion shall be supported by
19 adequate factual documentation and shall conform in all respects to Federal Rule of Civil
20 Procedure 56, and shall include as exhibits all records and incident reports stemming from the
21 events at issue. If defendant is of the opinion that this case cannot be resolved by summary
22 judgment, he shall so inform the court prior to the date his summary judgment motion is due. All
23 papers filed with the court shall be promptly served on the plaintiff.

24 b. At the time the dispositive motion is served, defendant shall also serve, on a
25 separate paper, the appropriate notice or notices required by *Rand v. Rowland*, 154 F.3d 952, 953-
26 954 (9th Cir. 1998) (en banc), and *Wyatt v. Terhune*, 315 F.3d 1108, 1120 n. 4 (9th Cir. 2003).
27 *See Woods v. Carey*, 684 F.3d 934, 940-941 (9th Cir. 2012) (*Rand* and *Wyatt* notices must be
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1 given at the time motion for summary judgment or motion to dismiss for nonexhaustion is filed,
2 not earlier); *Rand* at 960 (separate paper requirement).

3 c. Plaintiff's opposition to the dispositive motion, if any, shall be filed with
4 the court and served upon defendant no later than thirty days from the date the motion was served
5 upon him. Plaintiff must read the attached page headed "NOTICE -- WARNING," which is
6 provided to him pursuant to *Rand v. Rowland*, 154 F.3d 952, 953-954 (9th Cir. 1998) (en banc),
7 and *Klingele v. Eikenberry*, 849 F.2d 409, 411-12 (9th Cir. 1988).

8 If defendant files a motion for summary judgment claiming that plaintiff failed to exhaust
9 his available administrative remedies as required by 42 U.S.C. § 1997e(a), plaintiff should take
10 note of the attached page headed "NOTICE -- WARNING (EXHAUSTION)," which is provided
11 to him as required by *Wyatt v. Terhune*, 315 F.3d 1108, 1120 n. 4 (9th Cir. 2003).

12 d. If defendant wishes to file a reply brief, he shall do so no later than fifteen
13 days after the opposition is served upon him.

14 e. The motion shall be deemed submitted as of the date the reply brief is due.
15 No hearing will be held on the motion unless the Court so orders at a later date.

16 4. All communications by plaintiff with the court must be served on defendant, or
17 defendant's counsel once counsel has been designated, by mailing a true copy of the document to
18 defendants or defendants' counsel.

19 5. Discovery may be taken in accordance with the Federal Rules of Civil Procedure.
20 No further court order under Federal Rule of Civil Procedure 30(a)(2) is required before the
21 parties may conduct discovery.

22 6. It is plaintiff's responsibility to prosecute this case. Plaintiff must keep the court
23 informed of any change of address by filing a separate paper with the clerk headed "Notice of
24 Change of Address." He also must comply with the court's orders in a timely fashion. Failure to
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26 do so may result in the dismissal of this action for failure to prosecute pursuant to Federal Rule of
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1 Civil Procedure 41(b).

2 **IT IS SO ORDERED.**

3 Dated: February 17, 2016

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JAMES DONATO
United States District Judge

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2 **NOTICE -- WARNING (SUMMARY JUDGMENT)**

3 If defendants move for summary judgment, they are seeking to have your case dismissed.
4 A motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure will, if
5 granted, end your case.

6 Rule 56 tells you what you must do in order to oppose a motion for summary judgment.
7 Generally, summary judgment must be granted when there is no genuine issue of material fact--
8 that is, if there is no real dispute about any fact that would affect the result of your case, the party
9 who asked for summary judgment is entitled to judgment as a matter of law, which will end your
10 case. When a party you are suing makes a motion for summary judgment that is properly
11 supported by declarations (or other sworn testimony), you cannot simply rely on what your
12 complaint says. Instead, you must set out specific facts in declarations, depositions, answers to
13 interrogatories, or authenticated documents, as provided in Rule 56(e), that contradict the facts
14 shown in the defendant's declarations and documents and show that there is a genuine issue of
15 material fact for trial. If you do not submit your own evidence in opposition, summary judgment,
16 if appropriate, may be entered against you. If summary judgment is granted, your case will be
17 dismissed and there will be no trial.

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NOTICE -- WARNING (EXHAUSTION)

19 If defendants file a motion for summary judgment for failure to exhaust, they are seeking
20 to have your case dismissed. If the motion is granted it will end your case.

21 You have the right to present any evidence you may have which tends to show that you did
22 exhaust your administrative remedies. Such evidence may be in the form of declarations
23 (statements signed under penalty of perjury) or authenticated documents, that is, documents
24 accompanied by a declaration showing where they came from and why they are authentic, or other
25 sworn papers, such as answers to interrogatories or depositions.

26 If defendants file a motion for summary judgment for failure to exhaust and it is granted,
27 your case will be dismissed and there will be no trial.
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MICHAEL A. WILLIAMS,
Plaintiff,
v.
GOYAT, et al.,
Defendants.

Case No. 15-cv-01593-JD

CERTIFICATE OF SERVICE

GOYAT, et al.,
Defendants.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on February 17, 2016, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Michael A. Williams
Correctional Training Facility
C44000
P.O. Box 690
Soledad, CA 93960-0690

Dated: February 17, 2016

Susan Y. Soong
Clerk, United States District Court

By: Lisa R. Clark
LISA R. CLARK, Deputy Clerk to the
Honorable JAMES DONATO